

EXHIBIT 9

Page 1

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

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4 SECURITIES INVESTOR PROTECTION

5 CORPORATION

6 v. CASE NO. 08-01789-smb

7 BERNARD L. MADOFF INVESTMENT

8 SECURITIES, LLC, et al,

9 Debtors.

10 - - - - - x

11 IRVING H. PICARD, TRUSTEE,

12 Plaintiff,

13 v. CASE NO. 09-01161-smb

14 KINGATE GLOBAL FUND,

15 LTD., et al.,

16 Defendants.

17 - - - - - x

18 IRVING H. PICARD, TRUSTEE,

19 Plaintiff,

20 v. CASE NO. 10-04946-smb

21 GOLDENBERG,

22 Defendants.

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1	U.S. Bankruptcy Court	1 A P P E A R A N C E S :
2	One Bowling Green	2 BAKER & HOSTETLER, LLP
3	New York, New York	3 Attorneys for BLMIS, Trustee
4		4 45 Rockefeller Plaza
5	July 26, 2017	5 New York, NY 10111
6	10:09 AM	6
7		7 BY: GERALDINE E. PONTO, ESQ.
8		8 MARSHALL J. MATTERA, ESQ.
9	B E F O R E :	9 DAVID J. SHEEHAN, ESQ.
10	HON. STUART M. BERNSTEIN	10 STACEY A. BELL, ESQ.
11	U.S. BANKRUPTCY JUDGE	11 AMANDA E. FEIN, ESQ.
12		12
13	ECRO: Unidentified	13 CHAITMAN, LLP
14		14 Attorneys for large group of defendants
15		15 465 Park Avenue
16		16 New York, New York 10022
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18		18 BY: HELEN DAVIS CHAITMAN, ESQ.
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20		20 McDERMOTT, WILL & EMERY, LLP
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22		22 340 Madison Avenue
23		23 New York, New York 10173
24		24
25		25 BY: ANDREW B. KRATENSTEIN, ESQ.
	Page 3	Page 5
1	Conference re: Madoff Day 2 Deposition Topics	1 SKADDEN ARPS SLATE MEAGHER & FLOM, LLP
2		2 Attorneys for Tremont
3	Discovery Conference Pursuant to Local Bankruptcy Rule	3 Four Times Square
4	7007-1	4 New York, New York 10036
5		5
6	Conference regarding status of factual stipulation in	6 BY: SETH M. SCHWARTZ, ESQ.
7	advance of motions for summary judgment	7
8		8 SCHULTE ROTH & ZABEL, LLP
9		9 Attorneys for Picower Parties
10		10 919 Third Avenue
11		11 New York, New York 10022
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13		13 BY: MICHAEL KWON, ESQ.
14		14
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25	Transcribed by: Sherri L. Breach, CERT*D-397	25

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<p style="text-align: right;">Page 34</p> <p>1 So what we did is we broke it down into those 2 categories that would appear to us to be the ones that are 3 most interesting to her, and they add up to 1,281. And you 4 say, well, what does that represent. If you look on the 5 next page you'll see that we have a pie chart and it says, 6 position stock record trading unprocessed microfilm reels. 7 What this represents is if you took all of the pages that we 8 gave Ms. Chaitman, the 168 pages, and broke it down into 9 what Mr. Madoff said were on these tapes, this is how it 10 would break down. They had open long positions, stock 11 records, et cetera. And these are all the ones and how they 12 broke down into percentages.</p> <p>13 And then the next page we took the ones that we 14 processed and broke that down. And this shows you that we 15 gave her a very good representative sample of all the 16 documents that are in there including what we believe to be 17 the ones that she would be most interested in looking at.</p> <p>18 So in other words this wasn't just a random 19 exercise by us. An effort was made by the trustee taking 20 the records that were available to him to respond very 21 directly to her statement that she did not get trading 22 records.</p> <p>23 Now when we had done all this, this goes back to 24 Judge Moss and your reference taken earlier, and that is, is 25 that Ms. Chaitman got the -- you know, we did some -- what's</p>	<p style="text-align: right;">Page 36</p> <p>1 we've given Ms. Chaitman with the 600 that she has more than 2 adequate data to come to Your Honor and then say, I've 3 looked at this, look at what I've found. Your Honor, you 4 should allow me to look, if not at all 4,700, at least the 5 1,281 that the trustee admits has stock record and other 6 information on it, and I should be able to look at it.</p> <p>7 I respectfully submit she has not done that. All 8 right.</p> <p>9 Now the two things that we've heard about from Ms. 10 Chaitman, and in her last submission she gave them to us, 11 was treasures. It was exclusive information according to 12 Ms. Chaitman. The treasures have been known about since 13 the very beginning. Very early in the case there was a 14 letter written by Mr. Hardvac (ph), I think it's been 15 referred to in this room, in which we disclosed to 16 (indiscernible) that, in fact, over \$16 billion worth of 17 treasures were purchased.</p> <p>18 It's a money business. It's a Ponzi scheme. 19 Deals in cash. The question is did he buy any of those 20 treasures for customers (indiscernible). If you take any 21 number of Ms. Chaitman's exhibits and compare those to the 22 703 account at the same time, no treasures were purchased. 23 None. Just what we (indiscernible). She can't find those. 24 All right.</p> <p>25 Same thing is true with regard to the banks</p>
<p style="text-align: right;">Page 35</p> <p>1 in the data room at this point by April, okay, and what's 2 available to Ms. Chaitman directly. So in the data room is 3 the 400 tapes that we've put in there back in the early 4 2000s, or 2011 and '12. It's been there since at least 5 2012.</p> <p>6 We ran 147 search terms on that and produced the 7 documents. And at the time there was no objection. Later 8 Ms. Chaitman objected to our search terms, added 17 more. 9 We ran those and gave her those documents. All right. So 10 those have been from our perspective thoroughly searched by 11 our search terms and hers.</p> <p>12 Then what we did is we found the -- those tapes I 13 was telling you about earlier from '92 back and we processed 14 those so she could digitally look at them and do her own 15 search terms, et cetera, and we gave those to her in its 16 entirety. So now she has that 600 tapes that are shown on 17 that last pie chart showing a representative sample.</p> <p>18 So what we're saying here today, this is a long- 19 winded answer to Your Honor's question. We're not saying 20 that proportionality means the trustee ahs a lot of money, 21 she has none, and therefore, you know, we should pay for it 22 or they should. What we're saying is, is that 23 proportionality takes place in the context of the discovery 24 at hand. All right. What are we going to gain by 25 continuing to look and research and spend money when I think</p>	<p style="text-align: right;">Page 37</p> <p>1 themselves because she doesn't actually know what's 2 (indiscernible) bank and a few other banks where she's said 3 that's actually happened. We have no correlation there 4 either. She's not making that correlation. All right.</p> <p>5 The mere fact that we have treasures being 6 purchased is unremarkable. It doesn't mean anything, not 7 unless she can actually show that they're purchased for a 8 particular account. And that's going to require a little 9 more legwork than what Your Honor has before you.</p> <p>10 Mr. Kratenstein, I don't disagree and that's why 11 he should be entitled to question Mr. Madoff about it. I 12 don't object to that at all. But he shows Your Honor 13 certain stocks that he found in there that were delivered in 14 by his family using that term broadly. We don't dispute 15 that either. All right. We found that happened. Everyone 16 who opened an account with Madoff didn't give him cash. 17 They gave him stock. And when he got it he liquidated it. 18 All right. He turned it into cash and then started this -- 19 his efforts.</p> <p>20 There's no trading that. He's cashing it in. And 21 we can show that. All right. We can show that that's what 22 actually happened to those stocks.</p> <p>23 Now it's going to show up, all right, in DTCC 24 records and so it looks like there's something actually -- 25 because there was only one DTCC account. That was the one</p>